

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No: 17242 of 2005

Dated 24th October, 2005

Between:

Ramalingam Venkata Rao S/o.Venkateswarlu and others.

Petitioners

AND

The District Collector, Ongole, Prkasam and others.

Respondents.

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No: 17242 of 2005

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ORDER:

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This writ petition has been filed by the petitioners who are 12 in number with a prayer to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in not considering the list of proposed eligible persons which was submitted before the Ongole Assembly Assignment Committee Meeting to be held on 16-7-2005 by postponing the said meeting to 23-7-2005 and considering the List of Benami persons along with the petitioners and other eligible persons without following the Assignment Procedure and Rules as illegal, arbitrary, null and void.

The first petitioner has sworn to the writ affidavit. The case of the petitioners as disclosed in the affidavit, in brief, is as follows:-

The petitioners are landless poor persons and they are residents of Kothapatnam village and Mandal, Prakasam District. The petitioners along with seven persons have approached the District Revenue officials for assignment of the land of Ac.98-41 cents in Sy.No.1204 i.e., at an extent of Ac.1-50 cents each, which is classified as A.W. land in the village accounts of Allur Kothapatnam village. In the month of January, 2000, the petitioners submitted a representation to the District Collector seeking assignment of the land. The Revenue Divisional Officer, Ongole was appointed as Enquiry Officer. He conducted enquiry and submitted a report, and there upon the District Revenue Officer, Ongole ordered assignment of the above said land to the eligible landless poor persons. The surveyors conducted survey and submitted a report by preparing sketches. An extent of Ac.926-41 cents in Sy.No.1204 of Kothapatnam village has been identified for assignment to the beneficiaries. The Grama Sabha also

approved the beneficiaries' names. On 9-2-2004, the then District Collector, M.T.Krishnababu ordered for distribution of land among 661 identified beneficiaries and also by taking into consideration the cases of ryots who have S.J. Rights. Some of the influenced persons belonging to the ruling party made the Mandal Revenue Officers to include Benamies S.J. Right holders in the list. On 17-6-2004, under the S.J. Rights Lists 72 names were shown. On 4-8-2004, in another List 15 names were shown as S.J.Right holders. In the year 2005, in another list 107 names were shown under S.J. Rights holders, who are no way concerned to the land and are also not entitled for S.J Rights. Thus ineligible persons were included in the list. The names of the persons included in the list subsequent to 16-7-2005 had no approval of the Grama Sabha.

The respondent filed counter affidavit. It is stated in the counter affidavit that the total extent of Survey No.1204 is Ac.926-41 cents. Out of it an extent of Ac.99-30 is excluded as being unfit for cultivation, leaving a balance of Ac.827-11. The break up of assignment of land is as follows:-

1.	Lands assigned long back and under cultivation, without any disputes--	117-87
2.	Lands assigned to the LLPs. In the year of 1979, 1991, 1992--	559-24
3.	Land covered by defunct Kothapatnam Salt Society and now under occupation by eligible S.J.dars--	150-00
4.	Total	= 827-11

Out of Ac.559.24 cents in Col. (2), it was proposed to resume the lands covering an extent of Ac.426-47 as the assignees have not cultivated the lands. Hence, notices were issued to 311 grantees by the Mandal Revenue Officer, Kothapatnam calling for explanations, if any, for the proposed resumption vide R.C.No.205/2000 dated 9-1-2001. Out of 311 persons, 196 persons have submitted their

explanations stating that the lands assigned to them have not been shown to them hence they could not cultivate the lands and requested the authorities to put them in possession of the lands. Their explanations have been accepted and ordered to retain their grants vide Mandal Revenue Officer's R.C.No.205 of 2000, dated 9-6-2005. The land retained and proposed to give possession to them is Ac.264-62 cents and the land resumed by the Mandal Revenue Officer, Kothapatnam and thus made available for assignment to others is Ac.161-85 cents. The original assignees have alienated lands to an extent of Ac.133-77 cents. Notices were issued to 61 persons vide Mandal Revenue Officer's RC.No.205 of 2000, dated 9-1-2001 calling for explanation as to why the lands should not be resumed under the A.P. Assigned Lands (POT) Act, 1977. Out of these, 56 persons have submitted their explanations stating that the lands are under their possession and enjoyment and that they have not alienated the lands. The matter has been got enquired and concluded that 39 grantees have not alienated the lands and ordered to be retained to them and further ordered to resume remaining land to the Government in Mandal Revenue Officer's R.C.No.205/2000, dated 9-6-2005. The land retained to the original assignees is Ac.78.12 cents and the lands resumed by the Government is Ac.55-65 cents. Thus an extent of Ac.217.50 cents is available for assignment excluding the land of Ac.150.00 belonging to defunct Society and under Sivaijama occupation and that there is no land to an extent of Ac.926.41 cents is available as alleged by the petitioners, for assignment. 662 persons have applied for assignment of land in Sy.No.1204 in the year 2000. But the applicants could not be considered in the year 2000 as the lands originally assigned to others have not been either cancelled or resumed to the Government. Final action was taken to resume some of the lands to the Government and cancel some of the D.K.T Pattas for violation in the year 2005 and the matter has been taken up for assignment of the vacant lands to land less poor. The list of 662 persons were not approved by the Revenue Divisional Officer, Ongole (2nd respondent) and the

Revenue Divisional Officer, Ongole proposed to hold meeting on 29-5-2000 to enquire the applications, but could not be finalized, as there was claim for assignment of those lands from the villagers and there were agitations for grant of land in question. Due to encountering several obstacles after issue of notices for resumption of the lands and pendency of civil suits, the work of assignment could not be completed forthwith. A meeting was held on 30-7-2004 calling for suggestions in order to overcome the stalemate in assignment of the Government lands. In the said meeting, it was resolved to decide the eligibilities of the person for assignment and the exact land available for assignment. The exact land available for assignment is Ac.367.50 including S.J occupation. The list as claimed by the petitioners has not been approved by the Joint Collector, Ongole or by Constituency Assignment Committee, who are authorized to approve the list of eligible persons. The Revenue Divisional Officer, Ongole has issued instructions in Rc.D.222/2000, dated 11-5-2000 to the Mandal Revenue Officer, Kothapatnam to identify the lands cultivated and uncultivated. The survey work has been taken up to gather particulars of the land cultivated and uncultivated, but not to assign the land to the persons as per the list furnished by the petitioners as alleged in the writ petition. The prohibitory orders were issued by the Revenue Divisional Officer and Sub-Divisional Magistrate, Ongole under Section 144 (2) Cr.P.C in Rc.B.222/2000, dated 1-2-2000 in respect of the defunct society when the present writ petitioners tried to enter upon the land unauthorizedly. The District Collector has not ordered for distribution of the land to the 661 identified beneficiaries. The objection petition has been received on 20-7-2004 from the Chinigepalli Subbamma and 24 others who stated that some of the persons included in the list of 662 persons are not eligible for assignment for various reasons. The society land is under possession and enjoyment of 98 eligible landless poor persons.

The Government in G.O.Ms.No.16, Revenue Department, dated 7-1-2005 as amended in G.O.Ms.No.98 Revenue dated 17-1-2005 have reconstituted the assignment committee Assembly

Constituency wise. Accordingly, the Assignment Committee for Ongole Assembly Constituency has been formed with the following persons.

Sl.No.	Name	Designation
1	Sri.B.Srinivasa Reddy,M.L.A.Ongole Assembly Constituency	Chairman
2	Revenue Divisional Officer, Ongole	Member
3	Mandal Revenue Officer, Kothapatnam	Member Secretary
4	Representative from each recognized National/State Political parties:- i. Sri.S.V.Seshaiah (Congress) ii. Sri.M.Subbarao (TDP) iii. Sr.D.Narapa Reddy (BJP) iv. Sri.Punati Anjaneyulu (CPM) v. Sri.R.Venkata Rao (CPI) (President writ petitioner) vi. Sri.Shaik Md.Raju (Minorities) vii. Smt.Narahari Lakshmi Kumari (women)	Members
5	Sri.V.Mohana Rao, President, MPP, Kothapatnam, Kothapatnam Mandal.	Member
6	Smt.M.Nirmala, Z.P.T.C. Member (for Kothapatnam Mandal)	Member

In the meeting held on 16-7-2005, only the list of 98 + 662 = 760 persons were placed before the Assignment Committee. The Assignment Committee presided over by Sri.B.Srinivasa Reddy, Member of Legislative Assembly, Ongole has raised objection for the list stating that the list was not given seven days in advance to the members of the Committee and secondly, all the applications have not been placed and therefore the committee resolved to place the

other applications for consideration in the next meeting and accordingly meeting came to be adjourned. The first petitioner who is the Member of Assignment Committee representing CPI has not raised objection for the resolution.

Heard the learned counsel for the petitioners and the learned Government Pleader appearing on behalf of the respondents.

The learned counsel for the petitioners submitted that the list consisting of 662 persons has been considered by the grama sabha, and therefore, their applications only are required to be placed before the Assignment Committee and no additions can be permitted to the said list of eligible persons. He further submits that the earlier committee approved only 21 S.J holders and therefore inclusion of 98 S.J holders to the list is not legal and proper.

The learned Government Pleader for Assignment submits that the entire list consists of 1012 and also list consisting of 98 Sivaijamas is required to be placed before the Assignment Committee and the Assignment Committee is to consider the recommendations made by the Mandal Revenue Officer and Revenue Divisional Officer with regard to their eligibility etc., and consider their cases individually.

The grievance of the writ petitioner appears that the earlier proposed list consist of only 661 and therefore, their names alone are to be considered by the Assignment Committee. I express my inability to accede the contentions of the writ petitioners, since the committee has been constituted in the year 2005 and therefore, all the applications received by the Mandal Revenue Officer are required to be placed before the Assignment Committee and ultimately, the Assignment Committee has to examine the eligibility of each applicant for assignment of land.

A further submission has been made by the learned counsel for the petitioners that the earlier list consists of only 21 Sivaijamas and whereas, the subsequent list is 98 Sivaijamas and therefore, the later

list is required not to act upon by the Assignment Committee.

The learned Government Pleader for Assignment submits that the Assignment Committee has already been considered the cases of 98 Sivaijamas and necessary orders have been passed. Such is the situation the validity of inclusion of 98 S.J holders cannot be gone in to at this stage. However the writ petitioners are at liberty to question the allotment of land to them by way of separate proceedings, if they are so advised.

Accordingly, the writ petition is devoid of merits and is dismissed.

24th October, 2005.

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It is submitted that the list of in-eligible candidates have been inserted

in the committee appointed by the Joint Collector, consisting of the members belonging all the parties of the officers. Consequently, only 21 people were declared as eligible under S.J. Rights in the list submitted to the Assignment Committee on 16-7-2005. However, the list of 76 members has been added under S.J. Rights and 1561 acres of land is shown for 151 members, and submitted to the committee scheduled to be held on 23-7-2005. They have prepared the names of 1012, by adding 351 members to the earlier list of 661, without showing the extent of availability of land. This list has been prepared secretly within four days, without giving any publication or adopting the procedure and rules of Assignment Act and approval of the Grama Sabha. The said list has not been read and approved in the village meeting and even not published and objections are not called for. Whereas, the list prepared on 16-7-2005 shall be approved by the Grama Sabha. If the proposed meeting scheduled on 23-7-2005 and approved by Ongole Assembly Assignment Committee, the petitioners along with other land less poor persons whose names have selected as per Assignment Act and Rules, will be put to irreparable loss and hardship.